

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:07CV477-01-MU

DAVID E. SIMPSON,)
)
Plaintiff,)
)
v.)
)
STALLING POLICE DEP'T, et. al.,)
)
Defendants.)
_____)

ORDER

THIS MATTER comes before the Court upon Plaintiff's Motions to Produce (Doc. Nos. 34 and 35), both filed November 12, 2008, and Plaintiff's Motion for Summary Judgment (Doc. No. 51), filed January 12, 2009.

On November 21, 2008, Plaintiff filed a motion requesting documents from the jail administrator and another motion requesting documents from Defendant Kane. On December 8, 2008, in separate filings, the Defendants responded to Plaintiff's motions.

Defendant Kane responded to the motion for production of documents by stating that the motion was premature as his responses to Plaintiff's discovery requests were not even due. Because at the time Plaintiff's motion was filed no response was yet due, his motion is denied.

Defendants Hedlund, Michael, Secrest, and Dennis responded to Plaintiff's request by stating that their responses to Plaintiff also were not yet due at the time of the filing of the motion. In addition, Defendants argued that Plaintiff's request was untimely given how late in the litigation process they were filed. Again, because at the time Plaintiff's motion was filed no response was yet due, his motion is denied.

On January 12, 2009, Plaintiff filed a Motion for Summary Judgment. A review of this filing reveals that it is a response to Defendants' Motion for Summary Judgment rather than an independent Motion for Summary Judgment. Consequently, it will be treated as a response and the motion will be terminated.

THE COURT HEREBY ORDERS that:

1. Plaintiff's Motion to Produce (Doc. Nos. 34 and 35) are **DENIED**; and
2. Plaintiff's Motion for Summary Judgment is **DENIED**.

Signed: February 3, 2009

A handwritten signature in cursive script, reading "Graham C. Mullen", written over a horizontal line.

Graham C. Mullen
United States District Judge

